REMARKS

Claims 1-4, 6, 8-10, 12-21, 23, 24, and 27 are currently pending. In the present amendment, Claims 1, 12, 13, and 23 are amended and Claim 27 is newly added. Claims 5, 7, 11, 22, 25, and 26 were canceled in a previous amendment.

Support for the amendments to Claim 1 (e.g., an actuator moving in a direction substantially perpendicular to movement of a projection) can be found in the specification and, in particular, Figs. 5A and 5B, as originally filed. Support for the amendments to Claims 12 and 23 (e.g., a recess adjacent to a protuberance) can be found in the specification and, in particular, Figs. 3A, 3B, 4A, and 4B, as originally filed and as further discussed below.

Claim Rejections – 35 U.S.C. § 112

Claims 13-15 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have amended Claim 13 as suggested by the Examiner. No new matter has been added. Applicants respectfully request removal of the rejection to the claims under 35 U.S.C. § 112.

Claim Rejections – 35 U.S.C. § 103

Claims 1-4, 6, 8, 10, 23, and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,021,573 ("Kikuchi") in view of U.S. Design Patent No. 377,303 ("Nagel") and U.S. Patent No. 6,102,134 ("Alsruhe"); Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kikuchi in view of Nagel and Alsruhe and further in view of U.S. Patent No. 4,976,173 ("Yang"); Claims 12, 16-19, and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kikuchi in view of Alsruhe and U.S. Patent No. 4,522,270 ("Kishi"); Claims 13-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kikuchi in view of Alsruhe and Kishi and further in view of Nagel; and Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kikuchi in view of Alsruhe and Kishi and further in view of Yang. Reconsideration is respectfully requested.

Independent Claim 1 and Dependent Claims 2-4, 6, and 8-10

Claim 1 recites a power tool comprising, a body housing a motor and a drive mechanism driven by the motor and providing a first grip surface, the body having a rearward end and

defining a body axis, a hand grip connected to the rearward end of the body, the hand grip providing a second grip surface and being supported for movement relative to the body between a first position, in which the first grip surface and the second grip surface are generally aligned, a second position, in which the second grip surface defines an obtuse angle with respect to the body axis, and a third position, in which the second grip surface is generally perpendicular to the first grip surface, a locking mechanism including a projection for selectively locking the hand grip in each of the first position, the second position, and the third position, the projection being moveable between a locked condition, in which the locking mechanism prevents movement of the hand grip relative to the body, and an unlocked condition, and an actuator for moving the projection between the locked condition and the unlocked condition, the locking mechanism allowing pivoting movement of the hand grip between the first, second, and third positions only when the actuator is actuated by an operator, wherein the actuator moves in a direction substantially perpendicular to movement of the projection, wherein the power tool is a reciprocating saw, and wherein the reciprocating saw further comprises a reciprocating spindle for supporting a tool element, the drive mechanism being operably connected to the spindle for causing reciprocation of the spindle.

Kikuchi does not teach or suggest a power tool including, among other things, an actuator moving in a direction substantially perpendicular to movement of a projection of a locking mechanism. Rather, Kikuchi discloses a housing 14 that is not pivotable and, therefore, does not include a locking mechanism. As such, Kikuchi does not disclose an actuator for moving a projection of a locking mechanism.

Nagel does not cure the deficiencies of Kikuchi. Rather, Nagel discloses a cordless drill including a housing having a first portion and a second portion. The first portion of the housing is rotatable relative to the second portion. However, Nagel does not disclose a locking mechanism for selectively locking the portions relative to each other. As such, Nagel does not disclose an actuator for moving a projection of a locking mechanism.

Alsruhe does not cure the deficiencies of Kikuchi or Nagel. If, *arguendo*, the activation member 70 is equivalent to the recited actuator and the pin 90 is equivalent to the recited projection, the activation member 70 does not move substantially perpendicular to the pin 90. As shown in Fig. 3 of Alsruhe, the activation member 70 slides within a channel 74 against a biasing member 80. As the activation member 70 slides in the channel 74, the pin 90 moves

along the channels 94, 96 of the housing halves 60, 62 into and out of the detents 46, 48. However, as clearly shown in the figures of Alsruhe, the channel 74 is not substantially perpendicular to the channels 94, 96 such that the activation member 70 does not slide substantially perpendicular to the movement of the pin 90.

In contrast, the recited actuator moves perpendicular to the movement of the recited projection, facilitating use of the locking mechanism. For example, as shown in Figs. 3A and 3B of the present application, the projection engages a recess formed along a rear surface of a body of a reciprocating saw to lock the hand grip relative to the body. The actuator that moves this projection out of the recess (e.g., disengages the projection from the recess) is positioned above and to the side of a power trigger. This arrangement allows an operator to comfortably actuate the actuator with one digit (e.g., a thumb) of the operator's hand while a different digit (e.g., an index finger) of the same hand is positioned to actuate the power trigger. Such a configuration is especially useful on larger power tools, such as reciprocating saws, where the operator cannot wrap his or her hand entirely around the housing of the power tool. Accordingly, Claim 1 is allowable.

Claims 2-4, 6, and 8-10 depend from Claim 1 and are allowable for the same, and other, reasons.

Claim 9 depends from independent Claim 1 and specifies, among other things, a cord operable to electrically connect the motor to a power source. As explained above, Kikuchi, Nagel, and Alsruhe, either alone or in combination, fail to teach or suggest each of the limitations of independent Claim 1. Yang does not cure the deficiencies of Kikuchi, Nagel, and Alsruhe. Yang does not teach or suggest, nor does the Examiner identify, any structures or elements equivalent to the recited actuator. Accordingly, Claim 9 is allowable.

Independent Claim 12 and Dependent Claims 13-21 and 27

Claim 12 recites a power tool comprising a body housing a motor and a drive mechanism driven by the motor, the body having a rearward end, a hand grip connected to the rearward end of the body, the hand grip being supported for movement relative to the body, a locking mechanism for locking the hand grip in a position relative to the body, the locking mechanism having a locked condition, in which the locking mechanism prevents movement of the hand grip relative to the body, and an unlocked position, and an actuator extending outwardly from one of

the body and the hand grip and operable to move the locking mechanism between the locked condition and the unlocked condition, wherein the body provides a first grip surface and defines a body axis, wherein the hand grip provides a second grip surface, and wherein the hand grip is supported for movement relative to the body about a pivot axis toward a position, in which the second grip surface is generally perpendicular to the first grip surface, wherein the hand grip is movable relative to the body only when an operator actuates the actuator to move the locking mechanism to the unlocked position, and wherein the power tool is a reciprocating saw, wherein the reciprocating saw further comprises a reciprocating spindle for supporting a tool element, the drive mechanism being operably connected to the spindle for causing reciprocation of the spindle, and wherein one of the body and the hand grip includes an outwardly extending protuberance having an engagement surface extending more than 180 degrees around the pivot axis, and wherein the one of the body and the hand grip provides a recess adjacent the protuberance for receiving a portion of the other of the body and the hand grip during pivoting movement of the hand grip relative to the body.

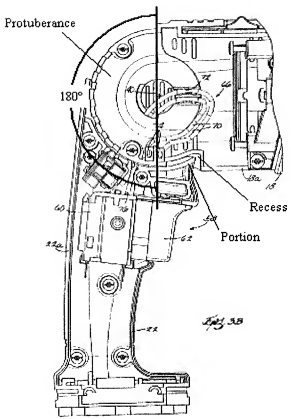
Kikuchi does not teach or suggest a power tool including, among other things, one of a body and a hand grip providing a recess adjacent to a protuberance for receiving a portion of the other of the body and the hand grip during pivoting movement of the hand grip relative to the body. Rather, Kikuchi discloses a housing 14 that is not pivotable. As such, Kikuchi does not disclose a recess for receiving a portion of a body or a hand grip during pivoting movement of the hand grip.

Alsruhe does not cure the deficiencies of Kikuchi. Rather, Alsruhe discloses a first housing member 12 that is rotatable relative to a second housing member 14. The first housing member 12 includes a rear portion 40 and the second housing member 14 includes an aperture 68 that receives the rear portion 40. However, as shown in Fig. 6 of Alsruhe, a corner of the first housing member 12 adjacent to the rear portion 40 contacts a surface of the second housing member 14 adjacent to the aperture 68 to limit the rotational range of the first housing member 12 relative to the second housing member 14. As such, neither the first housing member 12 nor the second housing member 14 of Alsruhe provides a recess to receive a portion of the other.

Kishi does not cure the deficiencies of Kikuchi or Alsruhe. Rather, Kishi discloses a housing 1 and a grip 2 pivotally attached to the housing 1. The housing 1 defines first and second seats 14, 15 and the grip 2 defines first and second stops 24, 25. As the grip 2 pivots to

the positions shown in Figs. 6(a) and 6(b), the stops 24, 25 abut the corresponding seats 14, 15, limiting the pivoting range of the grip 2. Due to this abutment, neither the housing 1 nor the grip 2 includes a portion that is received within a recess provided by the other.

In contrast, one of the recited body and the recited hand grip provides a recess adjacent to the recited protuberance. The recited recess receives a portion of the other of the body and the hand grip to increase the pivoting range of the hand grip relative to the body. As shown in annotated Fig. 3B (below) from the present application, the portion provides additional support for a power trigger and also supports a trigger lock. When the hand grip is pivoted to a position at approximately 90° relative to the body, the portion is at least partially received within recess such that the portion does not interfere with the pivoting movement. That is, the recited recess allows a hand grip including an extending portion that provides additional support to pivot further before the portion contacts or otherwise engages the body. In configurations where the recited recess is not present, the portion would either have to be removed or the portion would limit the pivoting range of the hand grip relative to the body (e.g., by functioning as a physical stop) to less than, for example, 90°. Accordingly, Claim 12 is allowable.



Claims 13-21 and newly added Claim 27 depend from Claim 12 and are allowable for the same, and other, reasons.

Claims 13-15 depend from Claim 12 and specify, among other things, first, second, and third positions of the hand grip. As explained above, Kikuchi, Alsruhe, and Kishi, either alone or in combination, fail to teach or suggest each of the limitations of independent Claim 12. Nagel does not cure the deficiencies of Kikuchi, Alsruhe, and Kishi. Nagel does not teach or suggest, nor does the Examiner identify, any structures or elements equivalent to the recited recess and the recited portion. Accordingly, Claims 13-15 are allowable.

Claim 20 depends from Claim 12 and specifies, among other things, a cord operable to electrically connect the motor to a power source. As explained above, Kikuchi, Alsruhe, and Kishi, either alone or in combination, fail to teach or suggest each of the limitations of independent Claim 12. Yang does not cure the deficiencies of Kikuchi, Alsruhe, and Kishi. Yang does not teach or suggest, nor does the Examiner identify, any structures or elements equivalent to the recited recess and the recited portion. Accordingly, Claim 20 is allowable.

Independent Claim 23 and Dependent Claim 24

Claim 23 recites a method of operating a power tool, the power tool including a body housing a motor and a drive mechanism driven by the motor and providing a first grip surface, the body having a rearward end and defining a body axis, a hand grip connected to the rearward end of the body, the hand grip providing a second grip surface and being supported for movement relative to the body about a pivot axis, a locking mechanism operable to lock the hand grip in a position relative to the body, an actuator operable to move the locking mechanism from a locked condition to an unlocked condition, and a reciprocating spindle for supporting a tool element, said method comprising the acts of positioning the hand grip in a first position in which the first grip surface and the second grip surface are generally aligned, operating the power tool in the first position, moving the hand grip relative to the body to a second position in which the second grip surface defines an obtuse angle with respect to the body axis, operating the power tool in the second position, moving the hand grip relative to the body to a third position in which the second grip surface is generally perpendicular to the first grip surface, operating the power tool in the third position, moving the locking mechanism between the locked condition, in which the locking mechanism prevents movement of the hand grip relative to the body, and the unlocked condition, and moving the actuator to move the locking mechanism between the locked condition and the unlocked condition, wherein operating the power tool in the first, second, and third positions includes reciprocating one of the tool element and the spindle relative to the body, wherein the hand grip is movable relative to the body to the first position, the second position, and the third position only when an operator actuates the actuator to move the locking mechanism to the unlocked condition, and wherein one of the body and the hand grip includes an outwardly extending protuberance having an engagement surface extending more than 180 degrees around the pivot axis, and the one of the body and the hand grip provides a recess adjacent to the protuberance for receiving a portion of the other of the body and the hand grip when the hand grip is moved relative to the body to the third position.

Kikuchi does not teach or suggest a method of operating a power tool including, among other things, moving a hand grip relative to a body to a third position in which a second grip surface is generally perpendicular to a first grip surface, and one of the body and the hand grip providing a recess adjacent to a protuberance for receiving a portion of the other of the body and

the hand grip when the hand grip is moved relative to the body to the third position. Rather, Kikuchi discloses a housing 14 that is not pivotable. As such, Kikuchi does not disclose a recess for receiving a portion of a body or a hand grip when the hand grip is moved to a third position.

Nagel does not cure the deficiencies of Kikuchi. Rather, Nagel discloses a cordless drill including a housing having a first portion and a second portion. The first portion of the housing is rotatable relative to the second portion. However, Nagel does not disclose a recess in one of the first portion and the second portion to receive a portion of the other of the first portion and the second portion.

Alsruhe does not cure the deficiencies of Kikuchi or Nagel. Rather, Alsruhe discloses a first housing member 12 that is rotatable relative to a second housing member 14. The first housing member 12 includes a rear portion 40 and the second housing member 14 includes an aperture 68 that receives the rear portion 40. However, as shown in Fig. 6 of Alsruhe, a corner of the first housing member 12 adjacent to the rear portion 40 contacts a surface of the second housing member 14 adjacent to the aperture 68 to limit the rotation range of the first housing member 12 relative to the second housing member 14. As such, neither the first housing member 12 nor the second housing member 14 of Alsruhe provides a recess to receive a portion provided by the other.

In contrast, one of the recited body and the recited hand grip provides a recess adjacent to the recited protuberance. The recited recess receives a portion of the other of the body and the hand grip to increase the pivoting range of the hand grip relative to the body. As shown in annotated Fig. 3B (above) from the present application, the portion provides additional support for a power trigger and also supports a trigger lock. When the hand grip is pivoted to a position at approximately 90° relative to the body, the portion is at least partially received within the recess. That is, the recited recess allows a hand grip including an extended portion that provides additional structural support to pivot further before the portion contacts or otherwise engages the body. In configurations where the recited recess is not present, the portion would either have to be removed or the portion would limit the pivoting range of the hand grip relative to the body (e.g., by functioning as a physical stop) to less than, for example, 90°
Accordingly, Claim 23 is allowable.

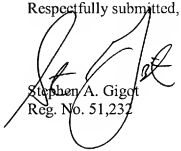
Claim 24 depends from Claim 23 and is allowable for the same, and other, reasons.

CONCLUSION

In view of the foregoing, entry of the present Amendment and allowance of the application are respectfully requested.

The undersigned is available for telephone consultation during normal business hours.

Respectfully submitted,



Stephen A. Gigot
Reg. No. 51,232

File No. 066042-9276-04
Michael Best & Friedrich LLP
100 E. Wisconsin Ave.
Milwaukee, WI 53202
(414) 271-6560